

**AN ORDINANCE AMENDING CITY CODE CHAPTER 2
("ADMINISTRATION") ARTICLE XI ("SHADE TREE COMMISSION") TO
UPDATE THE ORDINANCE INCLUDING CHANGES NECESSARY TO
COMPLY WITH NEW STORMWATER REGULATIONS**

WHEREAS, last year the State of New Jersey DEP revised the Tier A stormwater general permit and reclassified all municipalities into the Tier A category; and

WHEREAS, the aforesaid stormwater general permit revision requires all municipalities in the State to adopt and enforce a community-wide tree removal/replacement ordinance; and

WHEREAS, the Board of Commissioners finds that it needs to comply with the new DEP regulations and further seeks to update City Code Chapter 2, Article XI; and

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of the City of Millville that City Code Chapter 2 ("Administration") Article XI ("Shade Tree Commission") is hereby amended as follows:

**ARTICLE XI
Shade Tree Commission**

**§ 2-41. Statutory authority and creation.
[Amended 11-18-2002 by Ord. No. 32-2002]**

In accordance with the provisions N.J.S.A. 40:64-1 et seq., the Shade Tree Commission of the City of Millville is hereby created having the powers enumerated in these statutes.

§ 2-42. Members of the Shade Tree Commission.

- A. The Shade Tree Commission shall consist of seven members who shall be appointed by the Mayor in the manner and for the terms specified by state law.
- B. All subsequent appointments, except to fill vacancies, shall be for the full term of five years, to take effect on January 1 of the year of appointment.
- C. Appointments to fill vacancies occurring on the Commission shall be for the unexpired term.
- D. The Mayor is authorized to appoint two alternate members who shall be designated as "Alternate No. 1" and "Alternate No. 2," who shall serve during the absence or disqualification of any regular member or members.
- E. The initial term of Alternate No. 1 shall be five years which shall commence on January 1 of the year of appointment. The initial term of Alternate No. 2 shall be four years which shall commence on January 1 of the year of appointment. All subsequent appointments shall be for five years.

**§ 2-43. Trimming of Trees. [Amended 12-4-2001 by
Ord. No. 41-2001]**

- A. The owner of lands abutting all streets, lanes and alleys of the City, shall ~~between February 1 and July 1 of each year,~~ cut off all limbs and branches and trim said trees to not less than ~~10~~ 14 feet in height measuring from the curb or sidewalk where each tree is standing.
- B. Whenever the Shade Tree Commission shall determine that a tree needs to be trimmed in accordance with the previous subsection, the Shade Tree Commission shall notify, in

writing, the owner of the land to effect the necessary trimming. Said trimming shall be made within 30 days from the date of service of the written notice.

- C. In the event that a tree is not trimmed within 30 days after written notice has been served on the landowner to effect the trimming, the Shade Tree Commission may procure the trimming at its own expense. All costs expended therefor shall become a lien upon the real estate of the landowner in the same manner as taxes are a lien. The cost thereof shall be certified to the Tax Collector, and said costs shall be included in the next tax bill rendered to the landowner.
- D. In the event that the landowner has failed to effect the necessary trimming of the trees within 30 days of the service of the written notice, a formal complaint may be filed by the Shade Tree Commission against the landowner with the Municipal Court for enforcement of this section. The Municipal Court, in its discretion, may impose penalties as prescribed by Chapter 1, General Provisions, Article III, General Penalty, and in addition, may impose restitution in favor of the Shade Tree Commission for all moneys expended to effect the trimming of the trees.
- E. This section shall not apply to trees abutting the streets, lanes and alleys owned by the State of New Jersey or the County of Cumberland unless the State Department of Transportation or the County of Cumberland shall assent to the trimming of the trees.

§ 2-44. ~~Removal of trees~~ Tree Removal-Replacement.

- A. *This section establishes the requirements for tree removal and replacement in the City of Millville to reduce soil erosion and pollutant runoff, promote rainwater into the soil, and protect the environment, public health, safety, and infiltration of welfare.*
- B. The owner of land abutting any street, lane or alley of the City shall remove any tree, or part thereof, that is dangerous to public safety.
- C. Whenever the Shade Tree Commission shall determine that a tree, or part thereof, must be removed because it is dangerous to public safety, the Shade Tree Commission shall notify, in writing, the owner of the land abutting the street, lane or alley of the City where the tree is located to effect the removal. Said removal shall be made within ~~30~~ 14 days from the date of service of the written notice.
- D. In the event that a tree, or part thereof, is not removed within ~~30~~ 14 days after written notice has been served on the landowner to effect the removal, the Shade Tree Commission may procure the removal at its own expense. All costs expended therefor shall become a lien upon the real estate of the landowner in the same manner as taxes are a lien. The cost thereof shall be certified to the Tax Collector, and said costs shall be included in the next tax bill rendered to the landowner.

~~This section shall not apply to trees abutting the streets, lanes and alleys owned by the State of New Jersey or the County of Cumberland unless the State Department of Transportation or the County of Cumberland shall assent to the removal of the trees.~~

- E. *Any person who removes one or more street tree(s) with a diameter of 2.5" or more at 4 1/2 feet above ground level (DBH), unless exempt under Section 1, shall be subject to the*

requirements of the Tree Replacement Requirements Table below.

F. Any person, who removes one or more tree(s), as defined as tree removal, with a DBH of 6" or more per acre, unless otherwise detailed under Section I, shall be subject to the requirements of the Tree Replacement Requirements Table below.

G. Replacement tree(s) shall:

1. Be replaced in kind with a tree that has an equal or greater diameter than tree removed or meet the Tree Replacement Criteria in the table below;
2. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the City of Millville;
3. Be monitored by the property owner for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed

H. **Replacement Alternatives:** If the municipality determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the property owner shall plant replacement trees in a separate area(s) approved by the municipality.

I. **Exemptions:** All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption.

1. Residents who remove less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period. [The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the 'count' resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.]
2. Tree farms in active operation, nurseries, fruit orchards,

and garden centers;

3. *Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality;*
4. *Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.*
5. *Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;*
6. *Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;*
7. *Hazard trees may be removed with no fee or replacement requirement.*

J. Enforcement: *This ordinance shall be enforced by the Millville Shade Tree Commission.*

K. Violations and Penalties: *Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of \$250 per tree.*

Appendix A

City of Millville

List of Replacement Trees NOT Allowed

Scientific Name	Common Name
Ailanthus Altissima	Tree of Heaven
Bambusoideae	Bamboo

Section One

Should any provisions of this ordinance be deemed invalid for any reason that invalidity shall not affect the remaining provisions of the ordinance, and the provisions and sections of the ordinance are hereby declared to be severable with respect to their validity.

Section Two

This ordinance shall take effect twenty (20) days after final passage, according to law.

FIRST READING: April 16, 2024

Moved By: Hewitt

Seconded By: Sooy

VOTING	In Favor	Against	Abstain	Absent
Benjamin J. Romanik	X			
Joseph Sooy	X			
C. Kirk Hewitt	X			
Stephen E. Watson, Jr	X			

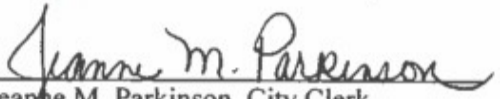
SECOND READING: May 7, 2024

Moved By: Ranello
Seconded By: Watson

VOTING	In Favor	Against	Abstain	Absent
Benjamin J. Romanik	X			
Joseph Sooy				X
C. Kirk Hewitt	X			
Stephen E. Watson, Jr	X			
Marissa Ranello	X			

CERTIFICATION

I certify that the foregoing is a true copy of an Ordinance adopted by the Board of Commissioners, of the City of Millville in the County of Cumberland, at a meeting thereof held on May 7, 2024.


Jeanne M. Parkinson, City Clerk

<i>PROCEDURE</i>	
Approved on First Reading:	April 16, 2024
Published:	April 20, 2024
Approved on Second Reading:	May 7, 2024
Published:	May 11, 2024
Effective Date:	May 31, 2024